



September 11, 2007

To: Mr. Tim Cotton, Agrifos Fertilizer, Inc.
Mr. Forrest Hand, Exxon-Mobil Refining and Supply Company

From: Captain William J. Diehl, U.S. Coast Guard, On-Scene Coordinator
Mr. Chris Ruhl, U.S. Environmental Protection Agency, On-Scene Coordinator

Ref: (a) Ardaman & Associates, Inc. Memo #07-122 dated 10 September 2007

The U. S. Coast Guard and the U.S. Environmental Protection Agency acknowledge Agrifos' representation that an exigent situation exists at the Agrifos facility as outlined in reference (a). In response to these findings, we recommend that Agrifos and Exxon-Mobil complete the following:

- 1) Take proactive steps to prevent catastrophic failure of the South and #4 Gypsum Stacks. It is imperative that you prevent failure of the pond walls that could lead to a massive release of contaminated wastewater in an uncontrolled manner. Your wastewater management efforts must consider all alternatives that minimize the impact to the environment to the maximum extent possible including identifying any potential impacts to the environment.
- 2) Immediately notify all adjacent property owners, including the Port Transit Rail Authority, of the situation in writing and by telephone of the potential for stack failure and/or additional releases of contaminated water. This notification must include the hazardous characteristics of the water and steps you are taking to prevent stack failure and releases.
- 3) Immediately notify all downstream ship channel facilities in writing and by telephone of the current emergency situation. This notification must include the hazardous characteristics of the water and steps you are taking to mitigate the emergency situation and prevent release to the Houston Ship Channel.
- 4) Immediately notify all entities from #2 and #3 of any actual release that occurs. This notification must include the hazardous characteristics of the water, estimated quantity, and steps you are taking to stop the release.
- 5) Notify us in writing when you have jointly determined that the Emergency Situation outlined in reference (a) is concluded. Agrifos and Exxon-Mobil must also assure all concerned parties that an effective wastewater management program has been implemented to eliminate future emergency situations.

We remain extremely concerned about mitigation strategies that involve further release to the environment. You are reminded that emergency actions do not absolve either company of responsibility to prevent releases of the wastewater to the environment. Furthermore, you are liable for all environmental damage as a result of releases in violation of existing permits or that exceed reportable quantities under the Clean Water Act or any other environmental statutes.